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George M. Halow

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EXAMINER

PORTER, RACHEL L

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* GEORGE HALOW & LOUIS ZUNIGA

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Appeal 2007-4550  
Application 10/042,236  
Technology Center 3600

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Mailed: April 17, 2009

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Before DALE M. SHAW, *Chief Appeals Administrator*

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 31, 2007. A Docketing Notice was mailed and Appeal No. 2007-4550 was assigned on September 29, 2007. A review of the application has revealed that the application was not ready for an appeal. Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

Claims 13-21 of the instant application are set forth as method claims that may not fall with one of the four statutory categories of invention recited in 35 U.S.C. § 101. On May 15, 2008, the Deputy Commissioner for Patent Examining Policy, John J. Love, issued a memorandum entitled “Clarification of “Processes” under 35 U.S.C. § 101.” This memorandum is further used in conjunction with the Interim Guidelines and the Manual of Patent Examining Procedure § 2106.IV.B, when determining whether a claimed invention falls within a statutory category of invention. *See In re Bilski*, 545 F.3d 943 (Fed. Cir. 2008)(en banc). Thus, there is a question as to whether claims 13-21 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 13-21 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/tdl

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